

Decision 04-12-041 December 16, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Lower and Adjust Retail Electric Rates for All Customer Classes Upon Completion of Full Recovery of Procurement Related Obligations Account.

Application 03-01-019
(Filed January 17, 2003)

**OPINION GRANTING INTERVENOR COMPENSATION
TO VISALIA SENIOR HOUSING, INC.**

Summary

This decision awards Visalia Senior Housing, Inc. (VSH) \$9,150 in compensation for its contributions to Decision (D.) 04-08-045. VSH has been found to be a “customer” as defined in Pub. Util. Code § 1802(b), has fulfilled the eligibility requirements of § 1804(a), has made the requisite showing of financial hardship as defined under § 1802(g), and is entitled to compensation.

Discussion

On October 31, 2003, VSH filed a petition for modification of D.03-07-029. In D.04-08-045 we granted the relief sought by VSH. VSH’s participation made a substantial contribution to the Commission’s decision in D.04-08-045 by bringing to the Commission’s attention a problem that had resulted from D.03-07-029. That problem, which caused CARE-eligible group living facilities to pay higher rates than they were paying before D.03-07-029, was addressed in VSH’s petition for modification and was rectified in D.04-08-045. VSH prevailed upon the Commission to modify D.03-07-029 as requested.

VSH's participation in D.04-08-045 has benefited CARE-eligible group living facilities in Southern California Edison Company's territory. The benefits these ratepayers have obtained as a result of VSH's participation are tangible and significant. D.04-08-045 resulted in the elimination of VSH's 23% rate increase (caused by D.03-07-029), which totaled approximately \$14,500 per year. Other CARE-eligible group living facilities will also benefit substantially from D.04-08-045.

VSH's contribution to this proceeding was "necessary for the fair determination of the proceeding" (§ 1801.3(f)) in that the problem raised by VSH would not otherwise have been called to the Commission's attention.

Hourly Rates and Expenses

VSH is requesting compensation of \$9,584 for the time reasonably devoted to this proceeding and the expenses incurred.

The following is a summary of the hours claimed, hourly rates, and direct expenses.

\$6,792	24.7 hours @ \$275/hour, attorney time
\$1,698	7.9 hours @ \$215/hour, consultant time
\$ 0	Travel Time
\$ 104	Mailing Costs to Service List (5 mail-outs)
\$ 990	7.2 hours @137.50/hour, Compensation-related time
\$9,584	TOTAL AMOUNT CLAIMED

VSH is awarded \$9,150, a decrease of \$434 from the amount requested. This adjustment reflects a decrease in the hourly rate shown above for consultant time from \$215/hour to \$160/hour.

The number of hours claimed by VSH is reasonable. Most of the hours claimed involved identifying, verifying, and understanding the problem with D.03-07-029 and its impact on VSH, and then preparing the petition for modification of D.03-07-029 describing the same.

VSH's representative in this matter was Utility Cost Management LLC (UCM). Two individuals from UCM participated in this case: Paul Kerkorian and Michael Kerkorian. Paul Kerkorian is an attorney who has been practicing since 1990. Paul Kerkorian drafted the petition for modification and all other filed documents. Since 1996, his practice has focused exclusively on cases involving water and energy utility matters in civil courts and before the Commission. The requested hourly rate of \$275 is within the rates we have found reasonable for attorneys with similar training and experience.

Michael Kerkorian who holds a 1988 undergraduate degree in engineering founded UCM in 1991. UCM is a firm that reviews business and institutional customer's bills to ensure compliance with applicable rates and tariffs. Through his involvement with UCM, and reviewing thousands of customer bills over the years, Michael Kerkorian has developed an expertise in rate and tariff analysis and has testified in approximately six Commission proceedings on these issues. Michael Kerkorian performed the rate analysis regarding the rate increase caused by D.03-07-029, and its impact on VSH, which was incorporated into the petition for modification. The requested rate of \$215/hour for Michael Kerkorian is higher than the rates we normally award to experts with his level of experience (see for example, D.03-10-085, where Jody London was awarded \$160/hour in 2003 with 15 years of experience and D.04-04-003, where William Marcus was awarded \$185/hour in 2003 with more than 20 years of experience.) and we therefore reduce his hourly rate to \$160/hour. The direct expenses of

participation in this proceeding, primarily the cost of mailing documents to the service list, are reasonable.

Comments on Draft Decision

Pursuant to Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure (Rules), the otherwise applicable 30-day period for public review and comment is waived because this is an intervenor compensation decision.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. VSH made a substantial contribution to D.04-08-045 as described herein.
2. As adjusted herein, the requested hourly rates for attorneys and experts are reasonable when compared to the market rates for persons with similar training and experience.
3. The total of the reasonable compensation is \$9,150.

Conclusions of Law

1. VSH has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation incurred in making substantial contributions to D.04-08-045.
2. VSH should be awarded \$9,150 for its contribution to D.04-08-045.
3. Per Rule 77.7(f)(6), the comment period for this compensation decision should be waived.
4. This order should be effective today so that VSH may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. Visalia Senior Housing, Inc. (VSH) is awarded \$9,150 as compensation for its substantial contributions to Decision 04-08-045.
2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning January 11, 2005, the 75th day after the filing date of VSH's request for compensation, and continuing until full payment is made.
3. The 30-day period for public review and comment is waived.
4. This proceeding is closed.

This order is effective today.

Dated December 16, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

Compensation Decision Summary Information

Compensation Decision:	D0412041
Contribution Decision(s):	D0408045
Proceeding(s):	A0301019
Author:	ALJ Barnett
Payer(s):	Southern California Edison Company

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Visalia Senior Housing, Inc.	11/1/2004	\$9,584	\$9,150	No	

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Paul	Kerkorian	Attorney	Visalia Senior Housing, Inc.	\$275	2003-2004	\$275
Michael	Kerkorian	Analyst	Visalia Senior Housing, Inc.	\$215	2003	\$160